

FINAL STATEMENT OF REASONS

1) The Update to the Initial Statement of Reasons

There are no changes to the initial statement of reasons, which is hereby incorporated by reference, except for the following:

- The explanatory statement in Sections 25.08(h)(3) through (h)(5) are being revised to clarify the renumbering process.
 - Subsection (h)(3) is unchanged from the Initial Statement of Reasons.
 - Subsection (h)(4) contains the information previously contained in subsection (h)(3).
 - Subsection (h)(5) contains information previously contained in subsection (h)(4).
- The revision date on the Employer Testing Program Agreement, Form DL 520B ETP has been changed from 3/2007 to 7/2007. The revisions made to the form consist of:
 - The addition of the department's logo at the top with the notation "A *Public Service Agency*."
 - In paragraph 2, the second sentence is simplified to inform the applicant that the term of expiration is for three years.
 - In paragraph 6, the term "who has a satisfactory driving record" is deleted because it could be subjective. The department has determined that a satisfactory driving record, for purposes of this agreement, is one that is not currently suspended or revoked.
 - Paragraph 7a is modified to establish the form DL 65, Parts I and II, as the document on which a driver's performance is to be evaluated. The form DL 65, Parts I and II are incorporated in the text of the regulations and were made available to the public during the 45-day comment period.
 - Paragraphs 10, 11 and 12 are modified for clarity by citing the complete Vehicle Code rather than just the subsection.
 - Paragraph 15 deletes the phrase "DMV may terminate this Agreement for cause and without prior notice, if the Director of Motor Vehicles finds that the public interest so requires it." Instead, the department will reserve

the right to take prompt and appropriate remedial action against a tester who fails to comply with applicable standards.

- The revision date on the Voluntary Cancellation Request of Employer Number, Form DL 520C ETP was incorrectly stated in the Notice as 8/2003. The correct current revision is 9/2006.

2) Imposition of Mandate on Local Agencies or School Districts

The department's regulatory action amending Sections 25.06, 25.07, 25.08, 25.09, 25.10, 25.14, 25.15, 25.16, 25.17, 25.18, 25.19, 25.20, 25.21 and 25.22 in Article 2.1, Chapter 1, Division 1, of Title 13, does not impose any mandate on local agencies or school districts and imposes (1) no cost or savings to any state agency, (2) no cost to any local agency or school district that is required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of the Government Code, (3) no other discretionary cost or savings to local agencies, and (4) no cost or savings in federal funding to the state. No studies or data were relied upon to make this determination.

3) Summary of Comments Received and Department Response

The proposal was noticed on October 12, 2007, and made available to the public from October 12, 2007 through November 26, 2007. No comments were received on the regulatory proposal.

The department conducted an additional 15-day comment period for the public to review and comment on revisions made to the Employer Testing Program Agreement. The agreement was posted to the department's website and illustrated the omissions and additions using strikeouts and underlines. The 15-day comment period was noticed on August 20, 2008 and closed on September 4, 2008. No comments were received on the modified regulatory proposal.

4) Determination of Alternatives

No reasonable alternative considered by the department, or that has otherwise been identified and brought to the attention of the department, would be more effective in carrying out the purpose for which these regulations are proposed or would be as effective and less burdensome to affected private persons than the proposed regulations. During the rulemaking process, no alternative that would lessen the adverse economic impact on small business was submitted.